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March 5, 2012

FILED/ACCEPTED

MAR -5 2012

Federal Communications Commission  
Office of the Secretary

VIA HAND DELIVERY

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, D.C. 20554

Attention: Public Safety and Homeland Security Bureau – Policy and Licensing Division

**Re: REDACTED FOR PUBLIC INSPECTION**  
**Missouri RSA 5 Partnership d/b/a Chariton Valley Wireless Services**  
**REQUEST FOR WAIVER OF SECTION 20.18(h)(1)(i)(A)**  
**PS Docket No. 07-114**

Dear Secretary Dortch:

Missouri RSA 5 Partnership d/b/a Chariton Valley Wireless Services (“Chariton Valley”), by its attorneys, and pursuant to Section 0.459 of the Rules and Regulations of the Federal Communications Commission (“FCC” or “Commission”), 47 C.F.R. §0.459, hereby submits five (5) copies of the redacted version of its Request for Waiver of Section 20.18(h)(1)(i)(A) (“Request for Waiver”). The confidential version of the Request for Waiver previously was submitted to the Commission on January 17, 2012 along with a request for confidential treatment of the Request for Waiver. Under separate cover today, Chariton Valley is amending its confidentiality request. Because confidential treatment is no longer required for certain information in the Request for Waiver, Chariton Valley is submitting the accompanying redacted version of the Request for Waiver limiting the information redacted.

Also enclosed is an additional copy of this filing. Please date-stamp this copy and return it with the courier.

No. of Copies rec'd 0+4  
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Contact the undersigned counsel at (202) 600-7274 if you have any questions regarding this filing.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'G. Whiteaker', with a long horizontal flourish extending to the right.

Gregory W. Whiteaker  
*Counsel for Missouri RSA 5 Partnership  
d/b/a Chariton Valley Wireless Services*

Before the  
Federal Communications Commission  
Washington, D.C. 20554

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In the Matter of )  
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Wireless E911 Location Accuracy Requirements )  
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**REQUEST FOR WAVIER OF SECTION 20.18(h)(1)(i)(A)**  
**Missouri RSA 5 Partnership d/b/a Chariton Valley Wireless Services**

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Donald L. Herman, Jr.  
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*Counsel for Chariton Valley*

January 17, 2012

**SUMMARY**

Missouri RSA 5 Partnership d/b/a Chariton Valley Wireless Services (“Chariton Valley”), requests a waiver of the January 18, 2012 Enhanced 911 (“E911”) location accuracy benchmark applicable to network-based location technologies. Despite diligent effort, due to inherent limitations in network-based solutions in rural areas – limitations beyond Chariton Valley’s control, Chariton Valley will be unable to meet the January 18, 2012 network-based benchmark. Chariton Valley, however, has a clear path to compliance by overlying its GSM network with a CDMA network, and an LTE network and expeditiously transitioning its subscribers from GSM to CDMA/LTE.

There is good cause for grant of the waiver because it will allow Chariton Valley a brief amount of additional time in which to transition most of its subscribers to GPS-capable handsets. This will allow Chariton Valley to transition to a more accurate rural E911 location solution on an accelerated basis. It also will facilitate Chariton Valley’s deployment of 4G mobile broadband in Chariton Valley’s rural service area.

Denial of the waiver would not serve the public interest because it would result in reduction in GSM service and would slow, rather than accelerate greater location accuracy. It also would divert Chariton Valley’s limited resources from the deployment of a more accurate E911 location solution and the deployment of 4G mobile broadband service.

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**Before the  
Federal Communications Commission  
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**REQUEST FOR WAIVER OF SECTION 20.18(h)(1)(i)(A)**

Missouri RSA 5 Partnership d/b/a Chariton Valley Wireless Services (“Chariton Valley”), by its attorneys and pursuant to Sections 1.3 and 1.925 of the rules and regulations of the Federal Communications Commission (“FCC” or “Commission”),<sup>1</sup> hereby requests a waiver of Section 20.18(h)(1)(i)(A) of the rules.<sup>2</sup> That section requires licensees utilizing network-based location technologies to meet the first applicable Enhanced 911 (“E911”) location accuracy benchmark by January 18, 2012. As discussed herein, Chariton Valley has been working diligently to meet the FCC’s location accuracy requirements. Due to inherent and well documented limitations in network-based solutions in rural areas, however, Chariton Valley will be unable to meet the January 18, 2012 network-based benchmark.

Chariton Valley has a clear path to compliance and to meeting or exceeding the Commission’s E911 location accuracy requirements. Specifically, in order to improve the location data provided to local public safety answering points (“PSAPs”) and to provide mobile broadband in its rural service area, Chariton Valley has overlaid its Global System for Mobile Communications (“GSM”) network with a Code Division Multiple Access (“CDMA”) network, and is in the process of deploying a Long Term Evolution (“LTE”) network. Chariton Valley

<sup>1</sup> 47 C.F.R. §§ 1.3 and 1.925.

<sup>2</sup> 47 C.F.R. § 20.18(h)(1)(i)(A).

intends to expeditiously transition its subscribers from GSM to CDMA/LTE and the PSAPs support this transition. Accordingly, Chariton Valley anticipates that it will be able to meet or exceed future E911 location accuracy benchmarks through a blending of handset and network-based data, or exclusively through handset-based data.<sup>3</sup> Grant of the requested waiver will serve the public interest.

### **I. Background**

Chariton Valley is a Tier III carrier providing wireless telecommunications services to rural customers in north central Missouri in the Missouri 5 - Linn Cellular Market Area (CMA508 or the “Missouri 5 Market”). CMA508 is comprised of Chariton, Linn, Macon, Shelby, and Randolph counties in Missouri. Chariton Valley’s service area contains vast stretches of farmland and very few population centers. Chariton Valley has approximately [REDACTED] subscribers. Chariton Valley currently utilizes a network-based E911 location accuracy solution.<sup>4</sup>

Chariton Valley has experienced enormous difficulty and many setbacks in achieving Phase II accuracy on its GSM network. These difficulties are well documented before the Commission and affected PSAPs.<sup>5</sup> Notably, in its 2007 Waiver Petition, Chariton Valley requested a waiver of the location accuracy standards codified in the then current version of rule 20.18(h)(1).<sup>6</sup> Chariton detailed its difficulty in meeting the then existing standard, and also detailed steps it was undertaking to improve location accuracy in its challenging rural

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<sup>3</sup> To the extent necessary, Chariton Valley seeks a waiver of rule sections 20.18(h)(1)(iv) and (h)(1)(v) to utilize a blending of network and handset-based data or to utilize, exclusively, handset-based data as Chariton Valley transitions from GSM to CDMA/LTE.

<sup>4</sup> Chariton Valley uses a software-based technology provided by Polaris Wireless.

<sup>5</sup> See, e.g., Missouri RSA # 5 Partnership d/b/a Chariton Valley Wireless Services Petition for Waiver of Section 20.18(h)(1) of the Commission’s Rules, CC Docket No. 94-102 (filed Feb. 12, 2007) (“2007 Waiver Petition”).

<sup>6</sup> See *id.*

environment. Chariton Valley planned to sectorize its antennas and to add twenty (20) additional cell sites, primarily for E911 purposes. As discussed below, Chariton Valley undertook these extensive efforts, expending over [REDACTED] to sectorize all its cell sites, construct an additional eighteen (18) E911 GSM sites, and increase the height of six (6) towers in an effort to improve location accuracy and comply with the network-based accuracy standards.

Subsequent to the filing of Chariton Valley’s 2007 Waiver Petition, the Commission revised its E911 location accuracy requirements.<sup>7</sup> Notably, the Commission required licensees to meet location accuracy standards on a per-county or per-PSAP basis and implemented a phased schedule over which licensees must meet increasing standards of accuracy. Currently, a licensee employing a network-based location technology must locate 67 percent of calls within 100 meters in 60 percent of the counties or PSAP service areas by January 18, 2012.<sup>8</sup> A licensee may exclude “from compliance particular counties, or portions of counties, where triangulation is not technically possible.”<sup>9</sup> A licensee may meet the location accuracy standard either through

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<sup>7</sup> See, generally, *in re* Wireless E911 Location Accuracy Requirements, PS Docket 07-114, Second Report and Order, FCC 10-176, 25 FCC Rcd 18909 (2010) (“*Location Accuracy Second R&O*”).

<sup>8</sup> See 47 C.F.R. § 20.18(h)(1)(i)(A). That section provides:

(h) Phase II accuracy. Licensees subject to this section shall comply with the following standards for Phase II location accuracy and reliability, to be tested and measured either at the county or at the PSAP service area geographic level, based on outdoor measurements only:

(1) Network-based technologies:

(i) 100 meters for 67 percent of calls, consistent with the following benchmarks:

(A) One year from January 18, 2011, carriers shall comply with this standard in 60 percent of counties or PSAP service areas. These counties or PSAP service areas must cover at least 70 percent of the population covered by the carrier across its entire network. Compliance will be measured on a per-county or per-PSAP basis using, at the carrier's election, either [network-based accuracy data or blending of network and handset-based data].

<sup>9</sup> 47 C.F.R. § 20.18(h)(1)(vi).

network-based accuracy data or a blending of network and handset-based data.<sup>10</sup> The accuracy standard increases coverage to 100% of the counties or PSAPs by 2016.<sup>11</sup> Moreover, the Commission has determined that after eight years and an appropriate, yet-to-be determined transition period, *all licensees* subject to the E911 requirements will have to meet the more stringent handset-based accuracy standards.<sup>12</sup>

**II. Despite Diligent Effort, Chariton Valley Is Not Able to Meet the January 18, 2012 Network-based Accuracy Benchmark**

Currently, Chariton Valley utilizes a software-based, network-based E911 solution.<sup>13</sup> As proposed in its 2007 Waiver Petition, Chariton Valley has worked diligently to improve its E911 location accuracy. Since the filing of its 2007 Waiver Petition, Chariton Valley spent over [REDACTED] on network upgrades to try to improve its E911 location accuracy. Chariton Valley added sectors to all its GSM cell sites. Chariton Valley also constructed and placed into service an additional eighteen (18) GSM cell sites, essentially doubling the size of its network from 24

<sup>10</sup> See 47 C.F.R. § 20.18(h)(1)(iv) and (h)(1)(v).

<sup>11</sup> See 47 C.F.R. § 20.18(h)(1)(i)(C).

<sup>12</sup> See *in re Amending the Definition of Interconnected VoIP Service in Section 9.3 of the Commissions Rules; Wireless E911 Location Accuracy Requirements; E911 Requirements for IP-Enabled Service Providers*, Notice of Proposed Rulemaking, Third Report and Order, and Second Further Notice of Proposed Rulemaking, FCC 11-107 at ¶¶ 19-21. (rel. July 13, 2011) (“Unitary Standard Order”).

<sup>13</sup> Initially, when Chariton Valley had to make its E911 technology choice, no handset-based option existed for GSM networks. Thus, Chariton Valley, like all GSM carriers, was forced to utilize some form of network-based E911 location technology. As detailed further in Chariton Valley’s 2007 Waiver Petition and previous filings, Chariton Valley selected a location technology after extensively researching all network-based options. Proposals from Time Difference of Arrival (“TDOA”) vendors, whose solutions would have been the most expensive and, at the time, cost-prohibitive, had predicted accuracy levels nowhere near those required by the FCC. Chariton Valley also served as a beta test location for a new Angle of Arrival (“AOA”) technology company, but that technology did not prove accurate or reliable enough, and also would have required a cost-prohibitive number of additional antenna sites in order to approach FCC required accuracy levels. The software-based technology provided by Chariton Valley’s selected vendor, Polaris Wireless, was selected because it appeared to deliver accuracy along the same order of magnitude as would have been expected from a TDOA solution, and did not require very costly additional equipment.

GSM cell sites to 42 GSM cell sites. Chariton Valley also increased the height of six (6) towers to improve triangulation.<sup>14</sup> Chariton Valley made these changes primarily, if not exclusively, for the purpose of trying to increase its E911 location accuracy. Although Chariton Valley improved its location accuracy in some areas,<sup>15</sup> compliance with the January 18<sup>th</sup> benchmark remains unattainable.

Pursuant to Rule Section 20.18(h)(1)(vi), Chariton Valley excluded most of Shelby County, Missouri from compliance with the accuracy standard because triangulation is not technically possible there. In Chariton, Macon, and Randolph counties, however, triangulation from three cell sites theoretically may be possible, based on Chariton Valley's understanding of the limitations of the county exclusion rule.<sup>16</sup> Based on this understanding, Chariton Valley has not sought to exclude those counties.<sup>17</sup> Although triangulation from three cell sites may theoretically be possible in Chariton, Macon, and Randolph counties and a limited portion of Shelby County, because of inherent limitations in the network-based solution – limitations beyond Chariton Valley's control, Chariton Valley is not able to meet the Commission's January 18, 2012 accuracy benchmark. Accordingly, a waiver of the first accuracy benchmark, as contemplated by the Commission, is necessary.<sup>18</sup> Chariton Valley, however, has a clear path to compliance by transitioning its subscribers to CDMA and LTE.

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<sup>14</sup> Chariton Valley spent approximately [REDACTED] to sectorize its cell sites [REDACTED] to construct new towers, and [REDACTED] to increase the height of towers.

<sup>15</sup> Ironically, in some cases, the addition of new cell sites resulted in a reduction in predicted overall accuracy on a county-wide basis because border sites lack sufficient proximate or geometrically desirable sites with which to triangulate.

<sup>16</sup> See 47 C.F.R. § 20.18(h)(1)(vi).

<sup>17</sup> Linn County is still phase O.

<sup>18</sup> See *Location Accuracy Second R&O* at ¶ 56. If Chariton Valley or the Commission were to determine that Chariton Valley has construed the county exclusion rule too narrowly, then a waiver would not be necessary. Chariton Valley remains open to additional FCC guidance.

**III. Chariton Valley Has a Clear Path to Compliance by Transitioning its Subscribers to a CDMA/LTE Network and Handset-based Location Solution**

Because of the inherent limitations of a network-based solution in a rural area, Chariton Valley has determined that the best way to meet the applicable accuracy standards is to overlay a CDMA network on top of its existing GSM network, and to transition its subscribers to CDMA. The CDMA network will allow Chariton Valley to utilize the more accurate (at least in rural areas) handset-based location technologies. In addition, Chariton Valley's parent, Chariton Valley Communication Corporation, Inc. ("CVCC"), has become a participant in the Verizon Wireless Long Term Evolution in Rural Areas ("LRA") program. As part of this program, CVCC and Chariton Valley are deploying an LTE network throughout the Missouri 5 Market.

Chariton Valley has constructed its CDMA network and installed CDMA equipment at all of Chariton Valley's GSM sites as well as two new CDMA sites. Acceptance testing of the network occurred January 4-9, 2012. Chariton Valley expects to launch commercial CDMA service in March of 2012. Chariton Valley's LTE network deployment [REDACTED]. Chariton Valley expects to launch commercial LTE service [REDACTED].

Chariton Valley is still determining the exact details of its customer transition, and these details may evolve over time, subject to economic and competitive drivers. At this point, however, Chariton Valley plans to exchange its customers' GSM handsets for CDMA handsets *at no cost to the customer*. Customers, however, also may elect to acquire 4G handsets to utilize Chariton Valley's LTE network. Such LTE devices, at least initially, will utilize the CDMA network for voice communications and will "fall-back" to CDMA if no LTE network is available.

Although it is difficult to predict how quickly customers will transition from GSM to CDMA and/or LTE devices, Chariton Valley proposes to transition at least 85% of its

██████████ customers within one year of launching its CDMA network. Accordingly, Chariton Valley anticipates that by April of 2013, at least 85% of its subscribers will be utilizing devices capable of handset-based E911 location technology.

Because Chariton Valley's CDMA network is still in the process of being optimized and launched, Chariton Valley does not yet have handset-based accuracy data. Moreover, the Commission is in the process of revising its E911 measurement standards and requirements. Despite these variables, at this point, Chariton Valley anticipates that it will be able to comply with the applicable January 18, 2014, second network-based benchmark using a blending of network-based and handset-based data.<sup>19</sup> To the extent necessary, and out of an abundance of caution, as part of this waiver request, Chariton Valley requests for purposes of the accuracy benchmarks, the ability to rely either on (1) a blending of network and handset-based data or (2) handset-based accuracy data, exclusively, in any county or PSAP service area if at least 85 percent of Chariton Valley's subscribers, network-wide, use CDMA/LTE handsets, or if Chariton offers CDMA handsets to subscribers in that county or PSAP service area at no cost to the subscriber.<sup>20</sup>

In connection with the waiver of the January 18, 2012 first network-based benchmark, Chariton Valley proposes providing the Commission with a status report by August 17, 2012 regarding the status of the launch of Chariton Valley's CDMA network and customer transition. This should allow sufficient time for Chariton Valley to launch the CDMA and LTE networks

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<sup>19</sup> See, e.g., 47 C.F.R. 20.18(h)(1)(iv); see also *Location Accuracy Second R&O* at ¶ 48 (“[W]e will also allow accuracy data from both a network-based solution and a handset-based solution to be blended to meet the network-based standard.”).

<sup>20</sup> To the extent necessary, Chariton Valley requests a waiver of sections 20.18(h)(1)(iv) and (h)(1)(v) to allow Chariton Valley to utilize blending of network and handset-based data or exclusively handset-based data upon 85% CDMA/LTE handset penetration.

and gain meaningful experience regarding the rate of customer transition and handset-based accuracy data.

**IV. Grant of the Requested Waiver Serves the Public Interest and will Facilitate the Deployment of Mobile Broadband in Rural Missouri**

Pursuant to Section 1.3 of the Rules, the Commission may waive any provision of the rules if good cause is shown.<sup>21</sup> The Commission must decide if the requested waiver is in the public interest.<sup>22</sup>

Chariton Valley's commitment to deploy CDMA and LTE mobile broadband service, after having expended significant time and money trying to achieve compliance with its GSM network-based solution, is an extraordinary step. It goes far beyond what the Commission requires of rural carriers to meet E911 requirements. Chariton Valley's willingness to transition its customers to CDMA shows Chariton Valley's dedication to providing accurate E911 location data and will greatly serve the public interest.

Furthermore, Chariton Valley's request satisfies the general waiver standards under Section 1.925(b)(3) of the Rules in Wireless Telecommunications Bureau proceedings.

Specifically, a request for waiver may be granted if it is shown that:

- (i) The underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or
- (ii) In view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.

Chariton Valley's request satisfies both of these standards.

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<sup>21</sup> See 47 C.F.R. § 1.3.

<sup>22</sup> See *Northeast Cellular Telephone Company, L.P., et al. v. FCC*, 897 F.2d 1164 (D.C. Cir. 1990).

The purpose of the location accuracy rule is to provide public safety personnel with accurate information regarding the location of the caller so that public safety can provide emergency services *in a timely fashion* during times of crisis.<sup>23</sup> The underlying purpose of the rule would not be served by a denial of the waiver in this case.

Chariton Valley provides mobile service to rural Missouri. Absent the requested relief, Chariton Valley likely will be forced to shut down rural GSM sites where accuracy fails to meet the FCC requirements, and ultimately Chariton Valley would be forced to cease providing GSM entirely. If Chariton Valley were to be forced to shut down its GSM network or rural GSM sites, there would be areas with *no GSM service*. This would frustrate and delay the provision of emergency services in the Missouri 5 market rather than expediting them. The Commission has recognized that “clearly the availability of wireless service to enable a caller to reach 911 in the first instance outweighs the potential lack of ALI capability....”<sup>24</sup> Chariton is providing location data today, where requested, and has been diligently working to improve the accuracy of such data.<sup>25</sup>

The Commission has recognized the challenges that rural network-based carriers face in meeting Phase II requirements.<sup>26</sup> Grant of the requested waiver will allow Chariton Valley to

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<sup>23</sup> See *Location Accuracy Second R&O* at ¶ 1.

<sup>24</sup> *Id.* at ¶ 44.

<sup>25</sup> Chariton Valley is sending location data to Macon, Randolph and Shelby County. The Chariton County PSAP, however, has chosen not to accept location data due to concerns about the accuracy and is waiting for more accurate data to be available from CDMA.

<sup>26</sup> The Commission has recognized that rural carriers such as Chariton Valley are at a considerable disadvantage in the provision E911 Phase II services. See, e.g., *Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Services – E911 Compliance Deadlines for Tier III Carriers*, Order, 20 FCC Rcd 7709 (2005); *Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, Fifth Memorandum Opinion and Order, 15 FCC Rcd. 22810, ¶ 21 (2000) (“*Fifth MO&O*”); See *Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911*

transition to a handset-based E911 solution, which has generally been found to be more accurate in rural areas than a network-based solution. This will provide more accurate information to public safety personnel and will *accelerate* Chariton Valley’s compliance with the unitary handset-based standard long before the eight-plus years established by the Commission.<sup>27</sup> Thus grant of the waiver will serve the public interest.

Grant of the waiver also will facilitate the deployment of 4G mobile broadband in the Missouri 5 Market, consistent with the Commission’s goal of supporting the deployment of broadband to rural areas.<sup>28</sup> Waiving the first network-based benchmark will remove a regulatory impediment that would otherwise delay the provision of mobile broadband services by diverting resources to Chariton Valley’s legacy GSM network. Grant of the waiver, therefore, will serve the public interest.<sup>29</sup>

Denial of the waiver would be unduly burdensome and contrary to the public interest. In order for Chariton Valley to meet the network-based location standards, it would need to deploy significantly more GSM E911 cell sites and/or to deploy A-GPS and a 3G network. It would be unduly burdensome, both to Chariton Valley and its subscribers who ultimately bear the cost, to

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*Emergency Calling Systems, Phase II Compliance Deadlines for Non-Nationwide Carriers, Order to Stay*, 17 FCC Rcd 14841 (2002) (“*Non-Nationwide Carriers Order*”).

<sup>27</sup> See *Unitary Standard Order* at ¶¶ 19-21.

<sup>28</sup> See generally, *Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform—Mobility Fund; WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (rel. Nov. 18, 2011)* (“*USF/ICC Transformation Order and FNPRM*”).

<sup>29</sup> As other parties have pointed out in this and related proceedings, being found to be out of compliance with the Commission's rules can threaten the financing and credit agreements on which many carriers rely, and/or result in default under existing agreements on which such carriers rely to provide service. See, e.g., SouthernLINC Reply Comments in PS Docket No. 07-114 at p. 16 (Oct. 14, 2008).

require Chariton Valley to construct additional E911-only sites when Chariton Valley's existing 42 GSM sites provide sufficient network coverage and capacity. Moreover, Chariton Valley believes it is self-evident that the public interest would best be served by allowing Chariton Valley to devote its limited resources to deploy 4G LTE rather than 3G, and by allowing Chariton Valley to transition its customers to a CDMA/LTE handset-based E911 solution.<sup>30</sup>

Finally, Chariton Valley notes that the Commission's phased deployment schedule continues to favor large carriers that serve densely populated areas. Specifically, although large carriers must meet the 100m/67% accuracy standard on a per-county or per-PSAP basis, they need only do so in 60 percent of the counties or PSAPs in their service areas as of January 18, 2012. Thus, as a practical matter, larger carriers may continue to fail to meet the 100m/67% standard in significant numbers of rural counties until 2016 and still be in compliance with rule 20.18(h)(1). Large carriers thus effectively have until 2016 to achieve compliance in rural counties (that are not otherwise excluded). Chariton Valley does not have densely populated areas – with the corresponding density and proximity of cell sites – against which to offset rural counties as of the first 60 percent benchmark. Thus denial of a waiver in this case would be inequitable.

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<sup>30</sup> In connection with the 2007 Waiver Petition, Chariton Valley provided financial information detailing why it could not immediately construct 20 to 30 additional GSM E911-only sites beyond the 20 it proposed to construct over six years. Rather than providing detailed financial information in connection with this waiver, Chariton Valley believes it is self-evident that a small rural carrier has limited financial resources and that those resources would best be spent deploying a proven handset-based solution and 4G LTE rather than deploying additional and otherwise unnecessary legacy GSM sites. Chariton Valley will shut down its GSM system rather than deploy additional GSM sites.

**V. Chariton Valley’s Compliance Efforts Are Consistent with Community Expectations**

Chariton Valley has been in frequent contact with the Chariton, Macon, Randolph, and Shelby county PSAPs and has informed them of Chariton Valley’s plans. These PSAPs support Chariton Valley’s transition of its subscribers to CDMA.<sup>31</sup> Chariton Valley also notes that T-Mobile, another GSM carrier in the area, has excluded Chariton, Macon and Randolph counties from the network-based accuracy standards due to the inability to triangulate in those counties.<sup>32</sup>

**VI. Conclusion**

Despite Chariton Valley’s extensive and good faith efforts to comply with the Commission’s E911 location accuracy standards using a network-based solution, Chariton Valley is unable to meet the January 2012 accuracy benchmark due to limitations of the technology beyond Chariton Valley’s control. Chariton Valley, however, has a clear path to compliance by deploying CDMA and LTE networks.

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<sup>31</sup> See Attachments 1-4 to this request, which are copies of letters from the respective PSAPs to the Missouri Public Service Commission supporting Chariton Valley’s transition to CDMA. See *Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems; E911 Phase II Compliance Deadlines for Tier III Carriers*, CC Docket No. 94-102, Order, 20 FCC Rcd 7709 (2005) (“*Tier III Carriers Order*”) (“To the extent that a carrier can provide supporting evidence from the PSAPs or state or local E911 coordinators with whom the carrier is assiduously working to provide E911 services, this would provide evidence of its good faith in requesting relief.”).

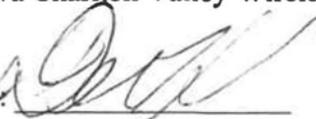
<sup>32</sup> See T-Mobile USA, Inc. Updated Exclusion Report, November 17, 2011 at p. 4.

REDACTED – FOR PUBLIC INSPECTION

Accordingly, and for the foregoing reasons, Chariton Valley requests that the Commission waive Section 20.18(h)(1) of the rules to the extent requested herein.

Respectfully submitted,

Missouri RSA 5 Partnership  
d/b/a Chariton Valley Wireless Services

By: 

Gregory W. Whiteaker  
Donald L. Herman, Jr.  
Herman & Whiteaker, LLC  
P.O. Box 341684  
Bethesda, MD 20827  
202-600-7272  
Its attorneys

January 17, 2012

## **Attachments 1-4**

### **Letters from Public Safety Answering Points**



**CHARITON COUNTY ENHANCED 911 SERVICES**  
**P.O. BOX 15**  
**KEYTESVILLE, MO 65261**  
**660-288-3460**



June 10, 2011

John Van Eschen  
Manager, Telecommunications Department  
Missouri Public Service Commission  
200 Madison St  
P.O. Box 360  
Jefferson City, MO 65102

Dear Mr. Van Eschen:

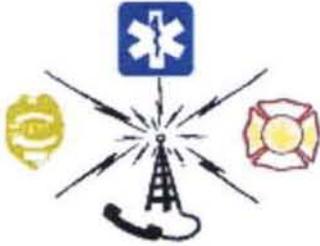
On behalf of my Board of Directors, I would like to express their support of the decision made by Chariton Valley Wireless to convert their existing GSM network to a CDMA network.

We understand that through this conversion, Chariton Valley Wireless will change their Phase II wireless 9-1-1 system from a network based solution to a handset based solution. Our experience with Phase II 9-1-1 handset based solutions has proven that it is extremely reliable in providing accurate location data for wireless 9-1-1 callers.

Chariton County Enhanced 911 Services supports the use of Universal Service Funds to support Chariton Valley's conversion to CDMA technology in the interest of public safety. We will appreciate your attention to and support of Chariton Valley's request.

Sincerely,

Les Dotson  
Director



**MACON COUNTY ENHANCED 9-1-1**  
**1205 N. MISSOURI ST.**  
**MACON, MO. 63552**  
**660-385-1911**

June 2, 2011

John Van Eschen  
Manager, Telecommunications Department  
Missouri Public Service Commission  
Governor Office Building  
200 Madison Street  
P.O. Box 360  
Jefferson City, MO 65102

Dear Mr. Van Eschen,

This letter is to express support for Chariton Valley Wireless Company to change their network to a CDMA based network, from the existing GSM network.

It is my understanding that by changing to a CDMA based network, Chariton Valley will change their Phase II wireless 9-1-1 solution to a handset based solution. This solution is a proven solution for accurately locating callers placing wireless 9-1-1 calls.

Macon County Enhanced 9-1-1 currently operates a 9-1-1 system that receives and utilizes Phase II data from wireless carriers.

Sincerely,

Michael L. Kindle, Director  
Macon County Enhanced 9-1-1

City of

*Moberly!*

**Police Department**  
Russell W. Tarr  
Chief of Police  
223rd Session FBI Academy

300 N Clark Street  
Moberly, MO 65270  
Phone: 660-263-0346  
Fax: 660-263-8540

June 22, 2011

John Van Eschen  
Manager, Telecommunications Department  
Missouri Public Service Commission  
Governor Office Building  
200 Madison Street  
P.O. Box 360  
Jefferson City, MO 65102

Dear Mr. Van Eschen,

This letter is to express support for Chariton Valley Wireless Company to change their network to a CDMA based network, from the existing GSM network.

It is my understanding that by changing to CDMA based network; Chariton Valley will change their Phase II wireless 9-1-1 solution to a handset based solution. This solution is a proven solution for accurately locating placing wireless 9-1-1 calls.

Moberly/ Randolph County Joint Communication Enhanced 9-1-1 currently operates a 9-1-1 system that receives and utilizes phase II data from wireless carriers.

Sincerely



Russell Tarr,  
Chief of Police  
Moberly/Randolph County

**SHELBY COUNTY E-911**  
**100 E. Main St. P.O. Box 258**  
**Shelbyville, MO 63469**  
**573-633-1424**

June 22, 2011

John Van Eschen  
Manager, Telecommunications Department  
Missouri Public Service Commission  
200 Madison St.  
P.O. Box 360  
Jefferson City, MO 65102

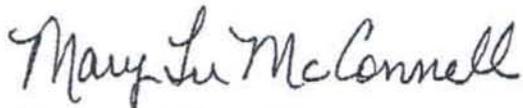
Dear Mr. Eschen,

Shelby County E-911 will support Chariton Valley Wireless Company to change their current GSM network to a CDMA based network.

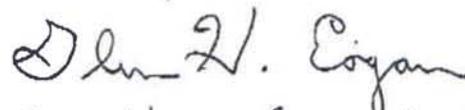
It is our understanding that your conversion to a CDMA based network changes Chariton Valley's Phase II wireless 9-1-1 system from a network based solution to a handset based solution which has proven accurate location data from wireless 9-1-1 callers.

Shelby County Enhanced 911 operates a 9-1-1 system that receives and utilizes Phase II data from wireless callers.

Respectfully,



Mary Lu McConnell  
Shelby County E-911  
Shelbyville, MO 63469

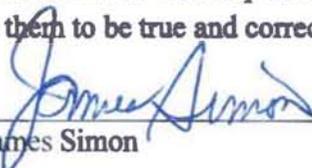


Del W. Eoyan  
Presiding Commissioner

## DECLARATION OF JAMES SIMON

I, James Simon, do hereby declare under penalty of perjury the following:

1. I am the General Manager of Missouri RSA 5 Partnership d/b/a Chariton Valley Wireless Services ("Chariton Valley");
2. I have read the foregoing "Request for Waiver of Section 20.18(h)(1)(i)(A)", and accompanying Request for Confidential Treatment. I have personal knowledge of the facts set forth therein, and I believe them to be true and correct.

  
James Simon

Dated: January 13, 2012